



595 Summer Street, Suite 300  
Stamford, CT 06901-1407  
Tel: 203.356.1318  
Fax: 203.425.9562  
www.mxenergy.com

October 15, 2010

The Honorable Kristi Izzo  
Secretary  
Secretary of New Jersey  
Two Gateway Center  
Newark, New Jersey 07102  
Via email: [rule.comments@bpu.state.nj.us](mailto:rule.comments@bpu.state.nj.us)

**RE: Re-Adoption of the Boards' Energy Competition Rules-N.J.A.C.14:4.**  
**Supplemental Comments from MXenergy Electric Inc. (MXenergy)**  
**Filed 10/15/10**  
**N.J.A.C. 14:4**  
**Energy Competition Rules**

MXenergy Electric Inc. ("MXenergy or MX") hereby submits its supplemental comments regarding the possible re-adoption of the New Jersey Board of Public Utilities' (the Board's) Energy Competition Rules (N.J.A.C. 14:4). MXenergy appreciated the opportunity to provide supplemental comments. Along with MXenergy, RESA NEM and Gateway (Initial and Supplemental) filed comments in this docket.

MXenergy is a licensed electric power supplier in New Jersey. It presently serves over 500,000 customers in 14 states and Canada. MXenergy has a broad retail sales footprint that provides it with a unique perspective to comment on the readoption review of the Board's Energy Competition Rules, N.J.A.C. 14:4. Below please review MXenergy's supplemental comments.

Gateway Energy Services Corporation filed Initial Comments on 7/2010 and subsequently filed Supplemental Comments on 10/05/2010. MXenergy strongly agrees with many of the points Gateway made in their Initial and Supplemental Comments. Specifically, MX endorses all the points that Gateway made concerning the §14:4-7.4 Marketing Standards. The purpose of these standards, to provide customers with adequate information is, in Gateway's and MX's opinion, hurting not helping retail competition. These rules place a true burden on the supplier that wants to offer different types of products. It is very difficult to project an LDC's rates throughout the term of a contract. Projecting LDC rates throughout a term of the contract, by definition involves estimation,

whose variability misleads the customers into believing the estimates are “fact” then the customer is frustrated and confused as to what to believe.

§14:4-7(b) 1 and 2 are perceived by many in MXenergy as the one true absolutely necessary fix for the upcoming review and readoption of the Board’s Energy Competition. Retail suppliers are required to provide a detailed customer bill comparison, including projected savings for their variable rate at different usage levels and for any fixed rates being offered. This present NJBPU requirement is particularly difficult for retail suppliers who have variable rate offerings. MXenergy agrees with Gateway’s Initial Comment observation<sup>1</sup> that “the practice of estimating future costs leaves third-party suppliers open to customers’ claims of misinformation when estimates do not match actual fees.” §14:4-7.4(B) (2) should be revised to only require retail suppliers to provide the current offered rate and how often it may change.

Shortening of the rescission period from 14 days, as is presently required under §14:4-7.6, to three days would allow customers to cancel their enrollment, if desired, but also reflect the realities of the retail supply marketplace. A 14 day rescission period requires retail suppliers to hedge the product upon enrollment but incorporate in the offered price the 14 day rescission period risk that the retail supplier must reflect since the customer can at present annul the enrollment 14 days after the contract is signed. Further, as Gateway explains in its Initial Comments, a shortened rescission period, allows retail energy suppliers to send enrollments 15 days prior to the end of the month instead of 30.

Within Gateway Energy Service Corporation’s filed Supplemental Comments, Gateway recommends that “the time frame be shortened to enable a drop to occur with 7 days written notice.” This contrasts to the present 30 day requirement of the Board. Further Gateway recommends that the practice of the utility companies’ dropping customers to dual bill for prior debts should be re-examined.”<sup>2</sup> MXenergy has first hand experience with this issue. As retail energy suppliers are trying to enter new markets, this regulation presents itself as a barrier to entry. Some utilities drop customer to dual billing when the customer is in “arrears”, but the present Rules require retail energy suppliers to not terminate a residential customer without 30 days’ prior notice. Customer confusion is one of the key problems with this scenario. In order for a retail electric supplier to comply with the 30 day drop rule, and protect itself from the risk of unpaid uncollectible charges, it must send a termination letter before the customer incurs a direct debt with the retail energy supplier.

Lastly, MX supports’ RESA’s recommendation that the Board “consider adopting new rules establishing a viable Purchase of Receivables Billing Program (“POR”) that uniformly applies to the state’s gas and electric utilities.”<sup>3</sup> POR programs have been found to be one of the best vehicles to promote retail energy competition. As RESA pointed out in their Initial Comments, the implementation of well structured POR programs have then witnessed significant migration of customers from regulated to

---

<sup>1</sup> Gateway Energy Service Corporation’s Initial Comments, p. 7, July 9, 2010.

<sup>2</sup> Gateway Energy Services Corporation’s Supplemental Comments, p. 3, October 5, 2010.

<sup>3</sup> Retail Energy Supply Association’s Initial Comments, p. 5, July 19, 2010.

competitive supply options. In all instances, customers have benefited from a new vibrant marketplace and lower energy prices.

MXenergy appreciates the opportunity to file these additional comments and looks forward to participating in the Board's Stakeholder Meeting on October 28, 2010.

Sincerely,

***/s/Diana Serna for  
Sandra Minch Guthorn***

---

Sandra Minch Guthorn  
Senior Counsel- Regulatory Affairs  
MXenergy  
10010 Junction Drive  
Suite 104-S  
Annapolis Junction, Maryland 20101  
[sguthorn@mxenergy.com](mailto:sguthorn@mxenergy.com)  
(240) 456-0505 (ext. 5520)